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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/087,718	03/01/2002	Kishan Khemani	11527.355	7476
22913	7590	08/05/2004	EXAMINER	
WORKMAN NYDEGGER (F/K/A WORKMAN NYDEGGER & SEELEY) 60 EAST SOUTH TEMPLE 1000 EAGLE GATE TOWER SALT LAKE CITY, UT 84111			RAJGURU, UMAKANT K	
		ART UNIT		PAPER NUMBER
		1711		

DATE MAILED: 08/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/087,718	KHEMANI ET AL.
	Examiner	Art Unit
	Umakant K. Rajguru	1711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 16 April 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-38 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-38 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

1. A response has been filed on April 16, 2004.
2. Claims being examined are still 1-38.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 1-8, 12 and 15-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Branham et al (US 6261674).
5. Claims 1-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Branham et al (US 6261674).

Place refer to earlier office action of January 28, 2004 for these rejections.

6. Applicant's arguments filed April 16, 2004 have been fully considered but they are not persuasive.

On page 9 (of above response), the applicants state that "Branham neither teaches nor suggests a sheet or film comprising a single layer etc etc." This statement is not persuasive because though Branham teaches film of multiple layers, extrusion of film of single layer (as well as multiple layers) is a technique well known for many years. It is therefore obvious that one of ordinary skill will use the composition of Branham to produce a single layer film by extrusion. Applicant's biodegradable film or sheet having a single layer is not patentably distinguishable from that of Branham.

Applicant's remarks on page 10 as regards the second layer of film of Branham and nonbiodegradable polymers used to make that second layer are irrelevant because one of ordinary skill in the art who wants to prepare a single layer-film will obviously concentrate on the composition of first layer of film of Branham.

Applicants remarks (on page 10) about ‘thermoplastic starch’ are not persuasive. Particularly applicants’ statement that Anderson et al does not teach how to make polymer blends with starch is contradictory to the invention of Anderson itself.

Applicant’s another statement that “microlayer films of Branham hardly comprise “a food wrap” “is true but not conducive to establish patentability since here again it is obvious to use a single –layer film of Branham to wrap up an item of food.

As regards limitation in instant claim 25, it goes without saying that any particle in a film will protrude from the surface of the film (or sheet) if and only if the diameter of that particle is greater than the thickness of film (or sheet). This limitation is quite obvious and carries no patentability.

Limitation of instant claim 16 which requires the film to be textured is considered to be an obvious modification.

Applicants’ remarks about remaining claims 18-38 are also not persuasive.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to U. K. Rajguru whose telephone number is (571) 272-1077. The examiner can normally be reached on Monday-Friday from 9:30 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James J. Seidleck can be reached on (571) 272-1078. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


U. K. Rajguru/af
July 26, 2004


SUSAN W. BERMAN
PRIMARY EXAMINER
GROUP 1500-17 //